

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

IN RE YASMIN AND YAZ (DROSPIRENONE) MARKETING, SALES PRACTICES AND RELEVANT PRODUCTS LIABILITY LITIGATION	X : : : : :	3:09-md-02100-DRH-PMF MDL No. 2100 Judge David R. Herndon
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This Document Relates to:

ORDER

*Vanessa VanBrunt v. Bayer HealthCare
Pharmaceuticals Inc., et al.*, No. 3:11-cv-
11077-DRH-PMF

*Vanessa VanBrunt v. Bayer HealthCare
Pharmaceuticals Inc., et al.*, No. 3:11-cv-
11702-DRH-PMF

ORDER

HERNDON, Chief Judge:

On April 5, 2011, pursuant to this Court's electronic filing procedures, A.J. De Bartolomeo (plaintiff's counsel) submitted a new case filing via email at newcases_eaststlouis@ilsd.uscourts.gov. The new case submission was for plaintiff Vanessa VanBrunt. The Clerk's office opened the new case in ECF on April 5, 2011 (3:11-cv-11077-DRH-PMF). The Clerk's office made two mistakes when it opened this case. First, when the case was opened, the Clerk's office failed to enter A.J. De Bartolomeo's email address in ECF. Accordingly, plaintiff's attorney never received notification via the CM/ECF system that the case had been opened and that electronic filing could proceed. The second error relates to the spelling of the plaintiff's last name; plaintiff's last name was spelled

VanBurnt instead of *VanBrunt*.¹ As is discussed below, this error compounded the initial notification error.

A.J. De Bartolomeo's office contacted the Clerk's office on May 13, 2011 to inquire as to why Vanessa VanBrunt's case had not been opened. The case administrator handling the call performed a name search in the ECF system (searching for Vanessa VanBrunt). The case administrator was unable to locate any MDL case involving Vanessa VanBrunt (because the case opened on April 5, 2011, 3:11-cv-11077, did not correctly spell plaintiff's last name). Accordingly, the Clerk's Office opened a second civil case for plaintiff Vanessa VanBrunt on May 13, 2011(3:11-cv-11702-DRH-PMF). On that same day, a complaint was filed and a summons was issued (3:11-cv-11702 Doc. 2 and Doc. 3).

On May 17, 2011, A.J. De Bartolomeo's office contacted the Clerk's office to notify it of a statute of limitations problem. Apparently, the statute of limitations ran prior to May 13, 2011 – the date the second case was opened and the date the complaint was filed. It also appears that had the original case been opened properly by this Court, the plaintiff would not have encountered any statute of limitations problems as her complaint would have been filed on April 5, 2011 – the day the first case was opened by the Clerk's office. After receiving this call, the Clerk's office discovered that a case had been previously opened for this plaintiff and the errors described above.

Considering the above, it seems that responsibility for the present conundrum may lie at the Court's door. However, before rendering a decision on

¹ The Clerk's office has since corrected the spelling of the plaintiff's last name.

how best to resolve this matter, the Court would like to hear from the parties.

Accordingly, the Court **ORDERS** the parties to submit briefing to the Court within seven days of the entry of this order, not to exceed ten pages, stating any relief that is being requested and addressing relevant authority.

SO ORDERED.

 Digitally signed by
David R. Herndon
Date: 2011.05.19
15:13:43 -05'00'

Chief Judge
United States District Court

Date: May 19, 2011